

April 16, 2018

TO: Members, Subcommittee on Energy
FROM: Committee Majority Staff
RE: Subcommittee Markup

I. INTRODUCTION

The Subcommittee on Energy will meet in open markup session on Wednesday, April 18, 2018, in 2123 Rayburn House Office Building at 10:00 a.m. to consider the following:

- H.R. 5174, Energy Emergency Leadership Act;
- H.R. 5175, Pipeline and LNG Facility Cybersecurity Preparedness Act;
- H.R. 5239, Cyber Sense Act;
- H.R. 5240, Enhancing Grid Security through Public-Private Partnerships Act; and
- H.R. 4606, Ensuring Small Scale LNG Certainty and Access Act.

In keeping with Chairman Walden's announced policy, Members must submit any amendments they may have two hours before they are offered during this markup. Members may submit amendments by email to peter.kielty@mail.house.gov. Any information with respect to an amendment's parliamentary standing (e.g., its germaneness) should be submitted at this time as well.

II. EXPLANATION OF LEGISLATION

A. H.R. 5174, Energy Emergency Leadership Act

H.R. 5174 amends the Department of Energy Organization Act to include energy emergency and energy security among the functions that the Secretary of the Department of Energy (DOE) shall assign to an Assistant Secretary; provides that these functions include responsibilities with respect to infrastructure, cybersecurity, emerging threats, supply and emergency planning, coordination, response, and restoration; and provides that these functions also include the provision of technical assistance, support, and response capabilities with respect to energy security threats, risks, and incidents to State, local, and tribal governments and the energy sector.

B. H.R. 5175, Pipeline and LNG Facility Cybersecurity Preparedness Act

H.R. 5175 requires the Secretary of Energy to carry out a program to coordinate Federal agencies, States, and the energy sector to ensure the security, resiliency, and survivability of natural gas pipelines, hazardous liquid pipelines, and liquefied natural gas facilities. The bill also requires the Secretary to coordinate response and recovery to physical and cyber incidents impacting the energy sector, develop advanced cybersecurity applications and technologies, perform pilot demonstration projects, develop workforce development curricula relating to physical and cybersecurity, and provide mechanisms to help the energy sector evaluate, prioritize, and improve physical and cybersecurity capabilities.

The Amendment in the Nature of a Substitute to H.R. 5175 clarifies that the policies and procedures to coordinate Federal agencies, States, and the energy sector includes councils or other entities engaging in sharing, analysis, or sector coordinating. The amendment also clarifies that the Secretary shall provide “technical tools” to help the energy sector evaluate, prioritize, and improve physical security and cybersecurity.

C. H.R. 5239, Cyber Sense Act

H.R. 5239 directs the Secretary to establish a voluntary DOE program that identifies and promotes cyber-secure products intended for use in the bulk-power system. The Secretary of Energy would be required to establish a testing process to identify products and technologies, including industrial control systems intended for use in the bulk-power system. In addition, the Secretary would be required to establish cybersecurity vulnerability reporting processes and maintain a related database. The Secretary also would be required to provide technical assistance to electric utilities, product manufacturers, and other electricity sector stakeholders to mitigate identified cybersecurity vulnerabilities.

H.R. 5239 instructs the Secretary to develop guidance for electric utilities for products tested and identified as cybersecure under the Cyber Sense program and to provide reasonable notice and solicit comments from the public, prior to establishing or revising the Cyber Sense testing process. Any cybersecurity vulnerability reported pursuant to this program, the disclosure of which the Secretary of Energy reasonably foresees would cause harm to critical electric infrastructure, shall be deemed “critical electric infrastructure information” as defined by section 215A(d) of the Federal Power Act.

The Amendment in the Nature of the Substitute to H.R. 5239 clarifies the purpose of the Cyber Sense program as testing the cybersecurity of products and technologies. The amendment also extends the scope the program to not only products but also technologies.

D. H.R. 5240, Enhancing Grid Security through Public-Private Partnerships Act

H.R. 5240 requires the Secretary to establish a program to facilitate and encourage public-private partnerships to promote and advance physical and cybersecurity of electric utilities. The Secretary is directed to carry out a program to (1) develop, and provide for

voluntary implementation of, maturity models, self-assessments, and auditing methods for assessing the physical security and cybersecurity of electric utilities; (2) provide training and technical assistance to electric utilities to address and mitigate cybersecurity supply chain management risks; and (3) increase opportunities for sharing best practices and data collection within the electric sector.

The Secretary is also required to take into consideration different sizes of electric utilities and the regions they serve and to prioritize electric utilities with fewer available resources due to size or region. Any information an electric utility provides to the Federal government through this program will be exempt from public disclosure under Federal, State, or tribal law.

The bill also provides for a report to Congress addressing cybersecurity as it relates to the electric distribution system, and the bill directs the Secretary to assess priorities, policies, procedures, and actions for enhancing the physical and cybersecurity of electric distribution system, including the costs and benefits of implementing these priorities, policies, procedures, and actions.

Finally, H.R. 5240 directs the Department of Energy to update the Interruption Cost Estimate Calculator, a tool designed for and utilized by electric reliability planners at electric utilities, government organizations, and other entities that are interested in estimating interruption costs and benefits associated with infrastructure improvements.

E. H.R. 4606, Ensuring Small Scale LNG Certainty and Access Act

H.R. 4606 provides that applications under the Natural Gas Act (NGA) for the importation or exportation of small volumes of natural gas shall be granted without modification or delay. Section 2 amends section 3(c) of the NGA by inserting “or the importation or exportation of a volume of natural gas that does not exceed 0.14 billion cubic feet per day” after “natural treatment for trade in natural gas.”

III. STAFF CONTACTS

If you have any questions regarding this markup, please contact Mary Martin, Brandon Mooney, Annelise Rickert, or Peter Spencer of the Committee staff at (202) 225-2927.